

SERVICE DATE - LATE RELEASE JUNE 12, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34079

SAN JACINTO RAIL LIMITED CONSTRUCTION EXEMPTION AND
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
OPERATION EXEMPTION—BUILD-OUT TO THE BAYPORT LOOP NEAR
HOUSTON, HARRIS COUNTY, TX

Decided: June 12, 2003

By decision served on May 9, 2003, the Board granted an exemption from 49 U.S.C. 10901 for San Jacinto Rail Limited to construct and The Burlington Northern and Santa Fe Railway Company to operate a 12.8-mile line of railroad. The new line would serve the Bayport Industrial District in southeast Houston, in Harris County, TX, near Galveston Bay. The grant is subject to 80 environmental mitigation measures. In that decision, in accordance with the regulations of the President's Council on Environmental Quality implementing the National Environmental Policy Act (at 40 CFR 1506.10(b)), the Board set the deadline for filing administrative appeals in this case at 30 days from the date on which the United States Environmental Protection Agency (EPA) published in the Federal Register a notice of the Final Environmental Impact Statement (Final EIS). The Board also indicated that the decision would not be effective until that date.

By decision served on May 16, 2003, however, in response to an error by the EPA in publishing the notice of the Final EIS in the Federal Register, the Board extended the deadline for filing administrative appeals (including petitions for reconsideration) and also extended the effective date of the May 9 decision until June 16, 2003.

On June 6, 2003, the City of Houston, TX (individually) and The Galveston Bay Conservation and Preservation Association and the League of United Latin American Citizens (jointly) filed petitions asking the Board to stay its May 9, 2003 decision pending judicial review of the decision. In those petitions, the parties also indicated that they would be filing, by the June 16 deadline, petitions for reconsideration of the May 9 decision.

To allow sufficient time for the Board to consider issues raised by any petitions for reconsideration that may be filed by the June 16 deadline, and any replies thereto, the effective date of

the May 9 decision will be extended to July 11, 2003.¹ Replies to any petitions that are filed will be due by June 23, 2003.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The effective date of the Board's decision served on May 9, 2003, is extended to July 11, 2003.
2. As indicated previously, petitions for reconsideration of the May 9 decision must be filed by June 16, 2003. Any replies thereto must be filed by June 23, 2003.
3. This decision is effective on its service date.

By the Board, Chairman Nober.

Vernon A. Williams
Secretary

¹ In light of the postponement of the effective date of the May 9 decision, no action on the requests for stay pending judicial review is necessary at this time.